

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**KEVIN NESBIT,**

Plaintiff,

v.

**BLUE STREAK ELECTRONICS,**

Defendant.

Case No. 3:20-cv-02255-JR

**ORDER**

**IMMERGUT, District Judge.**

On February 18, 2021, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation (F&R), ECF 9, recommending that this Court dismiss pro se Plaintiff Kevin Nesbit's Amended Complaint, ECF 8, without prejudice.<sup>1</sup> No party filed objections.

**DISCUSSION**

Under the Federal Magistrates Act ("Act"), as amended, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge's F&R, "the court shall make a de

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<sup>1</sup> Two days before the F&R was issued, Plaintiff filed an amended complaint. ECF 11. This Court will consider the most recent amended complaint, ECF 11.

novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act “does not preclude further review by the district judge, *sua sponte*” whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

No party having filed objections, this Court has reviewed Judge Russo’s F&R and adopts it in full as applicable to the most recently filed amended complaint, ECF 11. This most recent amended complaint, ECF 11, is identical to the complaint discussed in the F&R, ECF 8. The only change appears to be the attachment of an exhibit including graphic injury photographs. ECF 11-1. However, the amended complaint does not mention the photographs nor allege any physical injuries, medical expenses, or the like. *See* ECF 11.

For these reasons and the reasons stated in the F&R, ECF 9, this action is DISMISSED without prejudice.

**IT IS SO ORDERED.**

DATED this 17th day of March, 2021.

/s/ Karin J. Immergut  
Karin J. Immergut  
United States District Judge